



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
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NEWPORT BEACH, CA 92660
(949) 644- 3235**

Memorandum

To: Planning Commission
From: Patrick J. Alford, Planning Manager
Date: May 30, 2013
Re: June 6, 2013, Meeting – Discussion Item on Residential Lot Mergers (PA2012-102)

Background

Code Amendment CA2012-007 would modify the residential development standards so that the merger/reconfiguration of two or more lots would not result in an increase in the maximum amount of floor area that could have otherwise been developed prior to the merger/reconfiguration. The Council referred the matter back to the Planning Commission for additional consideration.

On May 9, 2013, the Planning Commission conducted a discussion on residential lot mergers to explore this issue further and provide direction to staff. Following extensive discussion, the Planning Commission directed staff to evaluate the following approaches or issues:

1. Revise the required findings to approve a lot merger:
 - a. Reconsider subjective language regarding “excessively large lots” and “surrounding development”
 - b. Distinguish between impacts to adjacent lots and the neighborhood
 - c. Consider impacts to adjacent lots over those to the neighborhood and community
2. Establish side setbacks proportional to lot width, up to 5-feet
3. Maintain pre-merger floor area limits
4. Avoid making existing development non-conforming
5. Exempt merging substandard lots

6. Apply City-wide, as practical
7. Impacts of merging more than 2 lots.

Discussion

To facilitate discussion of lot mergers, staff prepared examples of possible approaches using the direction provided by the Planning Commission. These are not presented as recommended actions or standards; however, they are intended to provide the Planning Commission with examples that could be explored further.

Required Findings

To approve a lot merger, Section 19.68.030 (H) of the Subdivision Code requires a finding that “the lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.”

To address the Planning Commission’s concern about the subjective nature of this finding, staff suggests adding “considerations” to guide the review authority as to the type of lot mergers the City is attempting to avoid. The example below shows how Finding No. 5 could be revised:

Example

5. *The lots as merged will be consistent with the ~~surrounding~~ pattern of development in the vicinity and will ~~not create an excessively large lot~~ result in a lot width, depth, or orientation, or development site that is not compatible with the ~~surrounding~~ adjoining and adjacent development. In making this finding, the review authority may consider the following:*
- a. Whether the merged lots would significantly deviate from the development pattern of adjoining and adjacent lots in a manner that would result in a material detriment to the use and enjoyment of other properties;
- b. Whether the merged lots would be consistent with the character or general orientation of other lots in the vicinity.
- c. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the Zoning District.

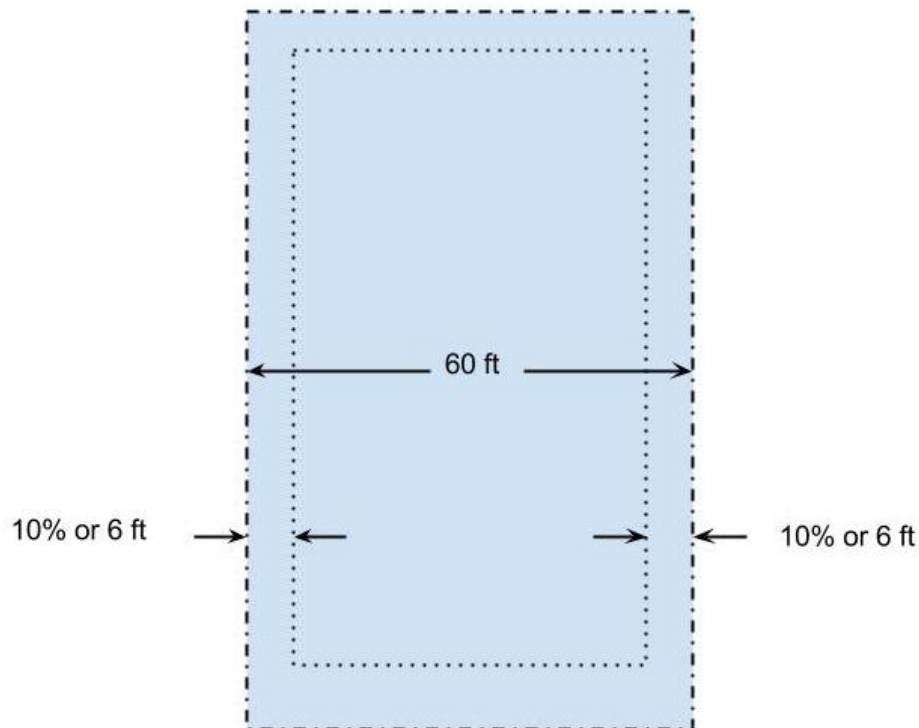
This example also uses Zoning Code terms of “adjoining” and “adjacent” to make distinctions between the proximity of the surrounding development. “Adjoining” is defined as “contiguous to, having district boundaries or lot lines in common;” while “adjacent” is defined as the condition of being near to, or close to, but not having a common boundary or dividing line.” “Vicinity” is not defined in the Zoning Code, so the common meaning of the term is used, which is synonymous with “neighborhood.”

Increased Setbacks

Currently, most of the City's residential zoning districts require a minimum side setback of 3 feet for lots 40-feet-wide or less and 4 feet for lots more than 40-feet-wide. Side setbacks could be increased by making them proportional to the lot width. However, plan checking on irregularly-shaped lots would be problematic because calculating the lot width is difficult.

Example 1

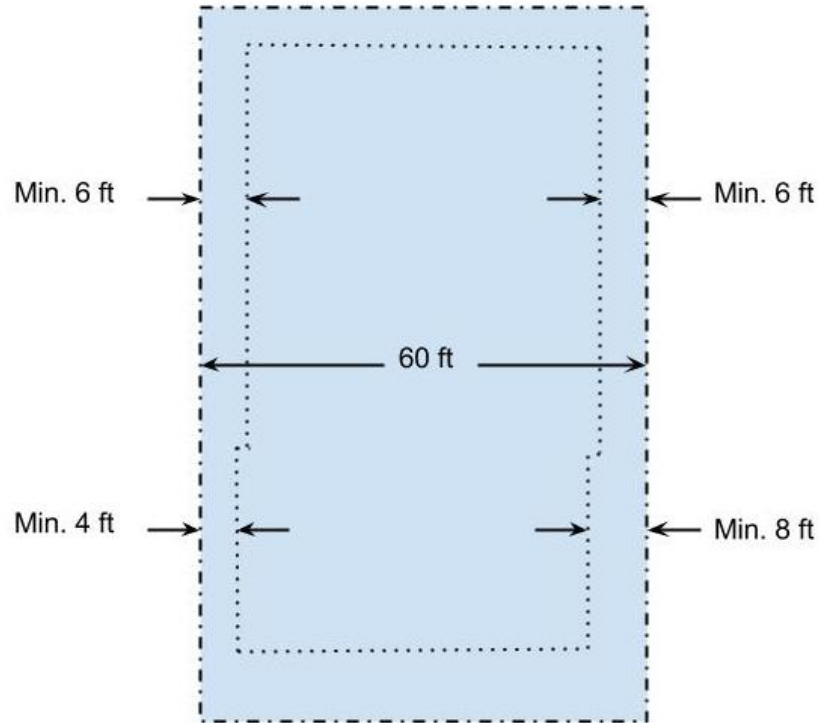
For lots wider than 50 feet, each side setback area shall have a width equal to ten (10) percent of the lot width (rounded to the nearest inch).



Example 2 requires side setbacks to have a total combined width of 20 percent with no side setback less than 4 feet. A maximum setback (e.g., 10 feet) can also be established, if desired. Varied side setbacks allow more design options and articulation of side elevations. It would also further complicate the plan check review process, which could result in increased staff time to complete plan checks.

Example 2

For lots wider than 50 feet, side setback areas shall have a total combined width equal to twenty (20) percent of the lot width (rounded to the nearest inch); no side setback shall be less than four (4) feet. Setbacks may be varied along the length of the structure.



Floor Area Limits

Increasing the side setbacks would reduce the buildable area and maximum floor area allowed, as shown in Table 1.

Table 1 ADD TITLE							
	2 Lots Developed Individually with 3-ft setbacks	2 Lots Merged with 4-ft Setbacks	Increase	2 Lots Merged with 5-ft Setbacks	Increase	2 Lots Merged with 6-ft Setbacks	Increase
Buildable	4,464	4,836	8.33%	4,650	4.17%	4,464	0.00%
Floor	6,696	7,254		6,975		6,696	
Note: Based on two (2) 30-ft x 118-ft lots (3,540 sf. each) with 20-ft front setback, 3-ft side setbacks, and 5-ft rear setback and a 1.5 Floor Area Limit.							

In the case of the merger of three lots, increasing the setback to 10 percent or 9 feet for each side would off-set the loss of the interior setback areas. See Table 2 below.

Table 2 ADD TITLE					
	3 Lots Developed Individually with 3-ft setbacks	3 Lots Merged with 4-ft Setbacks	Increase	3 Lots Merged with 9-ft Setbacks	Increase
Buildable	6,696	7,626	13.9%	6,696	0.0%
Floor	10,044	11,439		10,044	
Note: Based on three (3) 30-ft x 118-ft lots (3540 sf. each) with 20-ft front setback, 3-ft side setbacks, and 5-ft rear setback and a 1.5 Floor Area Limit.					

Minimizing Non-conformities

Modifying the development standard would create several existing structures nonconforming. To avoid this, the Zoning Code could be amended to apply the modified standards to lots created after the effective date of the amendment. This would create two setback standards based on the date the lot was created. This would further complicate the plan check review process, which could result in increased staff time to complete plan checks. There is also an equity issue where abutting lots could have two different setback standards.

Exempting Substandard Lots

Increasing the width of required side setbacks would reduce the buildable area and maximum floor area allowed. However, this could be a disincentive for the merger of substandard lots that would result in conforming or greater conformity with the minimum lot width and area standards for the Zoning District. To avoid this, the wider side setback could only be required for lots that are wider than the minimum lot width, which in most cases are 50 feet for interior lots and 60 feet for corner lots.

City-wide Application

The amendment, as currently proposed, is intended to apply to properties located in the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport.

The R-1 – 6,000 Zoning District (Mariner's, Dover Shores, Eastbluff, Harbor View, Shorecliffs, Cameo Shores, Cameo Highlands, and other communities) already has minimum 6-foot side setbacks. However, a wider side setback based on lot width for lots wider than the minimum lot width could be established. This could also be established for the R-1 – 7,200 Zoning District (5-foot minimum side setbacks) and the R-1 – 10,000 Zoning District (10-foot minimum side setbacks). However, development in these zones is regulated by lot coverage, not by a floor area ratio. Increasing the side setback requirement would not necessarily reduce the amount of floor area that could be developed. Also, approximately 65 percent of the land designated for single-unit and two-unit development is located in Planned Community (PC) Districts, which have a

variety of side setback requirements and development is generally regulated by lot coverage. Therefore, a one-size fits all solution is not apparent.

Revising the required findings for lot mergers is one option that would be applied City-wide. The revised findings would have to be made in order to approve all future lot mergers, regardless of the zoning district.

Conclusion

City staff has experienced significant challenges in developing a solution to potential compatibility concerns associated with lot mergers. Some of the challenges are stated below:

1. Variables such as lot size, width, area, configuration, and orientation, make defining a standard difficult.
2. Common zoning information (i.e., setbacks and floor area limits) would involve investigating the each lot's subdivision history, which would make zoning regulations less transparent and create more uncertainty to property owners.
3. Potential inequity as an older lot will be developed with a larger home and closer to the property than an identical neighboring lot that was created later.

The City has processed only 15 lot merger applications since 2008 (an average of three per year). Given small number of applications, this topic could best be addressed on a case by case basis.

Potential actions for the Planning Commission to consider include, but are not limited to:

1. Determine that existing policies and regulations pertaining to lot mergers are adequate and direct staff to report the Planning Commission's recommendation to the City Council along with a summary of the Planning Commission's extensive review and discussion; or
2. Direct staff to draft revised required findings for lot mergers to provide clearer direction to decision makers; and/or
3. Direct staff to draft revised setbacks and/or other development standards to address compatibility concerns associated with lot mergers.

If No. 2 and/or No. 3 are directed, staff will return with draft language for consideration at a future meeting.

Burns, Marlene

From: Alford, Patrick
Sent: Wednesday, June 05, 2013 10:48 AM
To: Burns, Marlene
Subject: FW: Lot Merger Language

From: Larry Tucker [<mailto:Tucker@GTPCenters.com>]
Sent: Tuesday, June 04, 2013 4:54 PM
To: Alford, Patrick
Cc: Wisneski, Brenda; Mulvihill, Leonie
Subject: Lot Merger Language

Patrick,

I like the approach you have taken to Lot Merger Finding No. 5, but would tweak the language as follows:

"5. The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making this finding, the review authority may consider the following:

- a. Whether development of the merged lots could significantly deviate from the pattern of development of nearby lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties;
- b. Whether the merged lots would be consistent with the character or general orientation of nearby lots; or
- c. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the Zoning District."

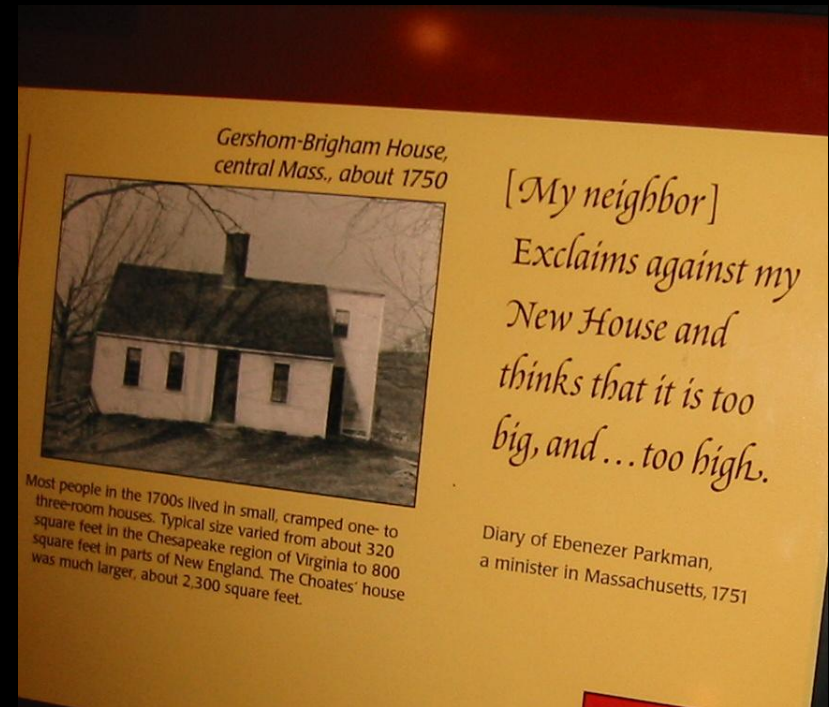
I would hope we accomplish a few things by replacing Finding No. 5 with the above language:

1. Actual development of merged lots should not be an issue in a lot merger decision since the development of the lots is not really before the decision-makers; rather it is the potential for merged lots to be developed in a fashion that is incompatible with nearby lots that should be the focus. One often does not know how lots that are proposed to be merged will be developed, so the Section should address lot mergers and not their development. Therefore language that compares merged lots with "surrounding adjoining or adjacent development" is comparing apples (a lot merger with no development defined) with oranges (what has been developed nearby). The Ocean Blvd. merger decision focused on the house being contemplated by the owner, even though technically that house was not before the Commission. The Commission even went so far as to tweak the details of the house, generating a no vote from the two members who did not consider the house in reaching their decision: The Chairman (who focused on the incompatibility of the lot with its surrounds) and yours truly (who felt the findings could be made).
2. Using the word "nearby" gives flexibility to what the merged lot is compared to. It can be as narrow or as expansive as decision-makers decide based upon the facts that are presented. The key word "surrounding" used in the existing code sounds like what encircles the merged lots, but that can be too narrow and could lead to a circumstance where lots in blocks where there has been no merger remain as such, whereas lots in the next block where there have been mergers are treated differently due to the fortuity of having had a lot merger in that block. The word "adjoining", even though defined in the code, likewise sounds too narrow.
3. I substituted the word "unreasonable" for the word "material" since having a big house come in next to an adjacent home could be considered a material detriment, but not necessarily unreasonable.

Look forward to our discussion on Thursday!

Larry

Residential Lot Mergers



Planning Commission
Discussion Item
June 6, 2013



Planning Commission Direction



1. Revise required findings
2. Proportional setbacks
3. Maintain pre-merger floor area limits
4. Avoid creating nonconformities
5. Exempt substandard lot mergers
6. City-wide application
7. Mergers of more than 2 lots

Required Findings



Section 19.68.030 (H):

5. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.

Example



5. The lots as merged will be consistent with the pattern of development in the vicinity and will result in a lot width, depth, or orientation, or development site that is not compatible with the adjoining and adjacent development. In making this finding, the review authority may consider the following:
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Tucker's Tweaks



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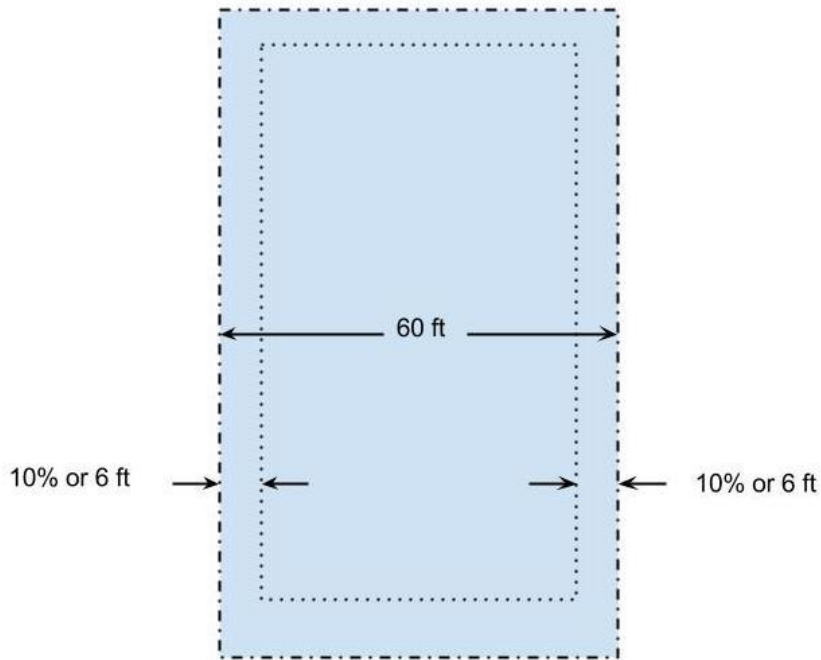
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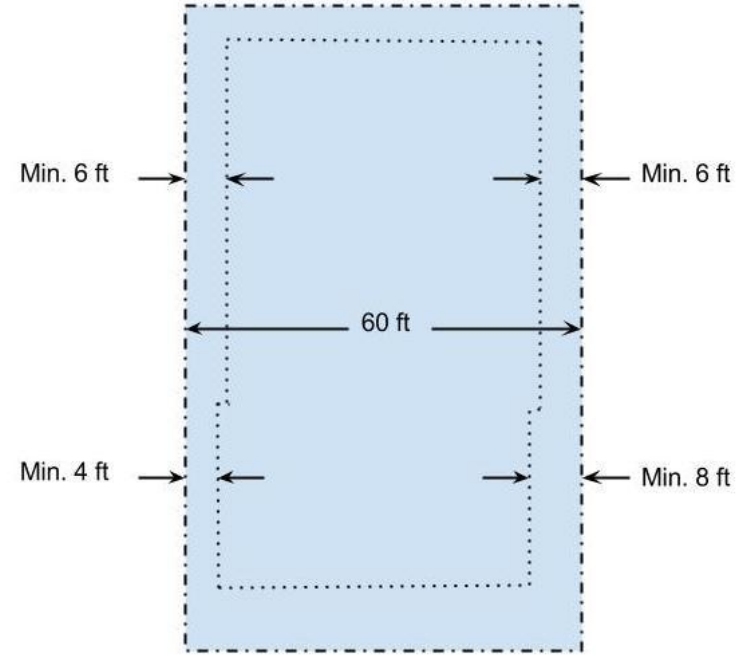
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Proportional Setbacks

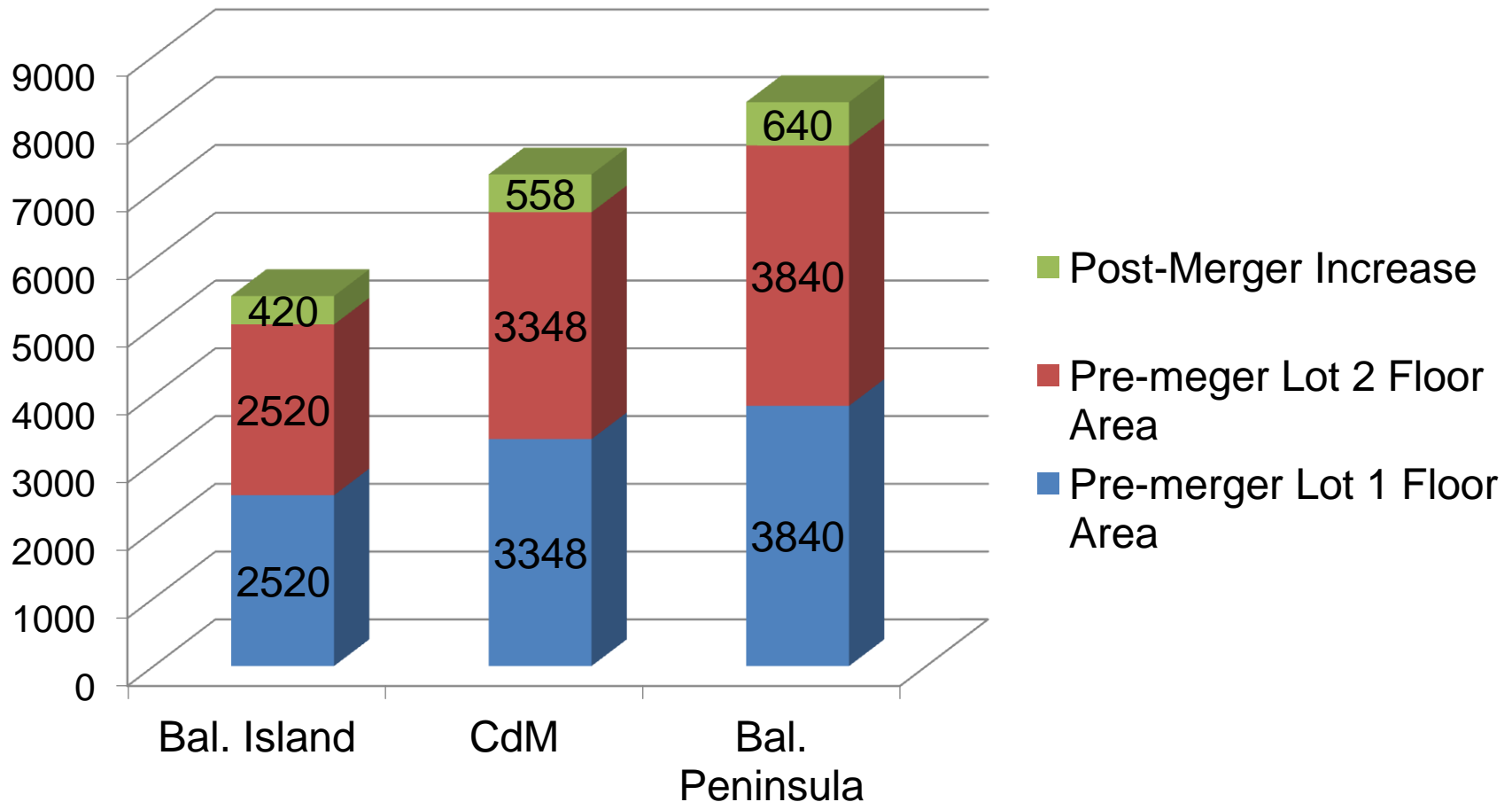
FIXED



VARIED



Floor Area Analysis



Floor Area Limits

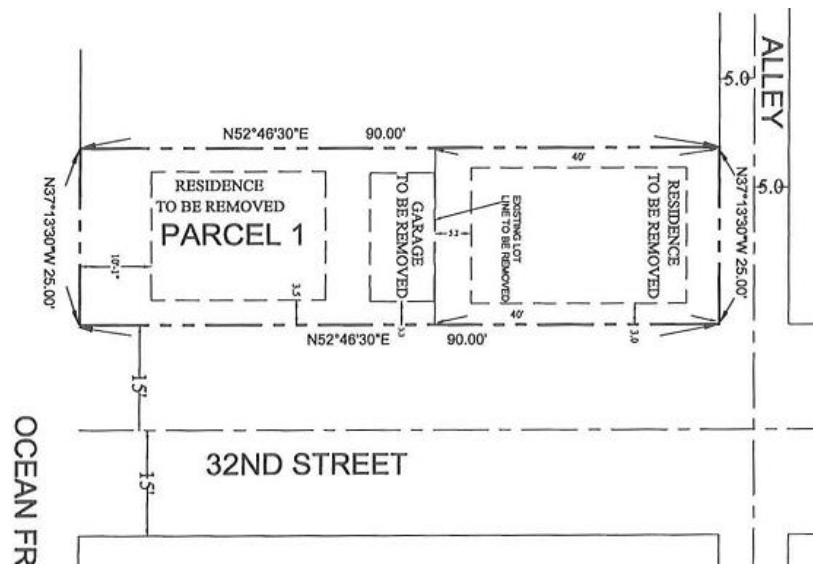


- 4-ft. side setback = 8.33% increase
- 5-ft. side setback = 4.17% increase
- 6-ft. side setback = 0.00% increase

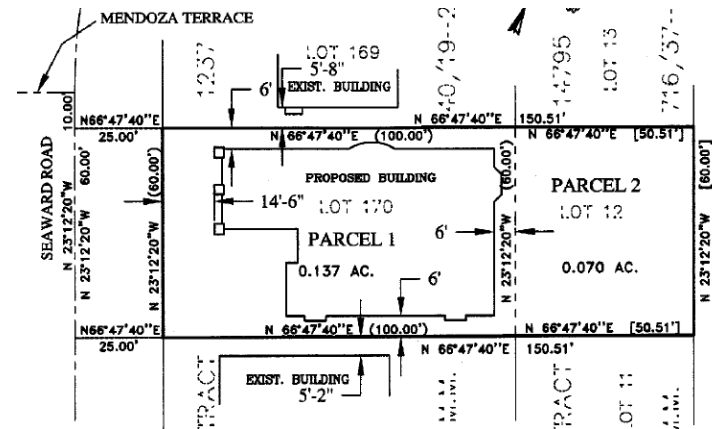
Atypical Lot Mergers



BALBOA PENINSULA

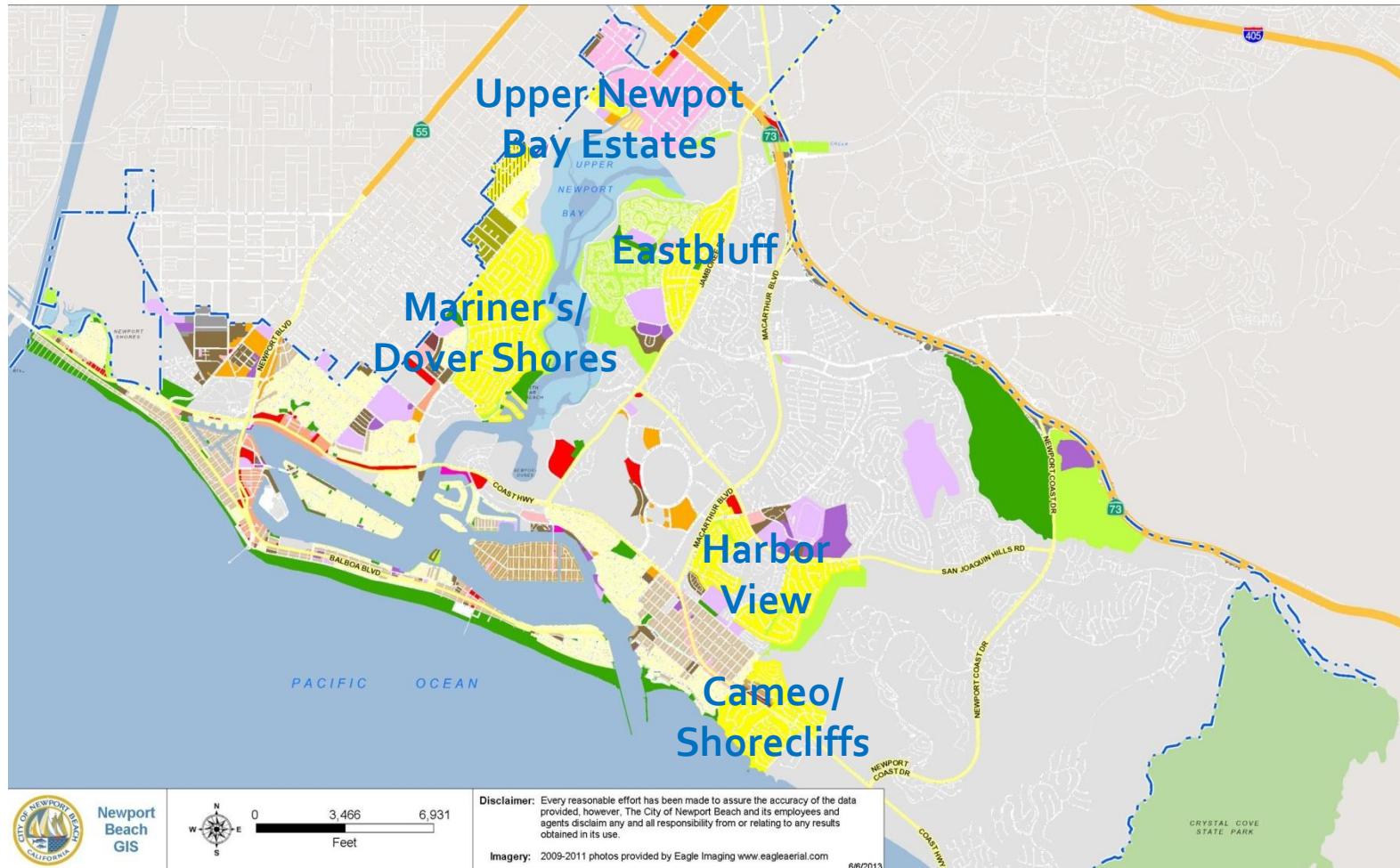


CORONA HIGHLANDS

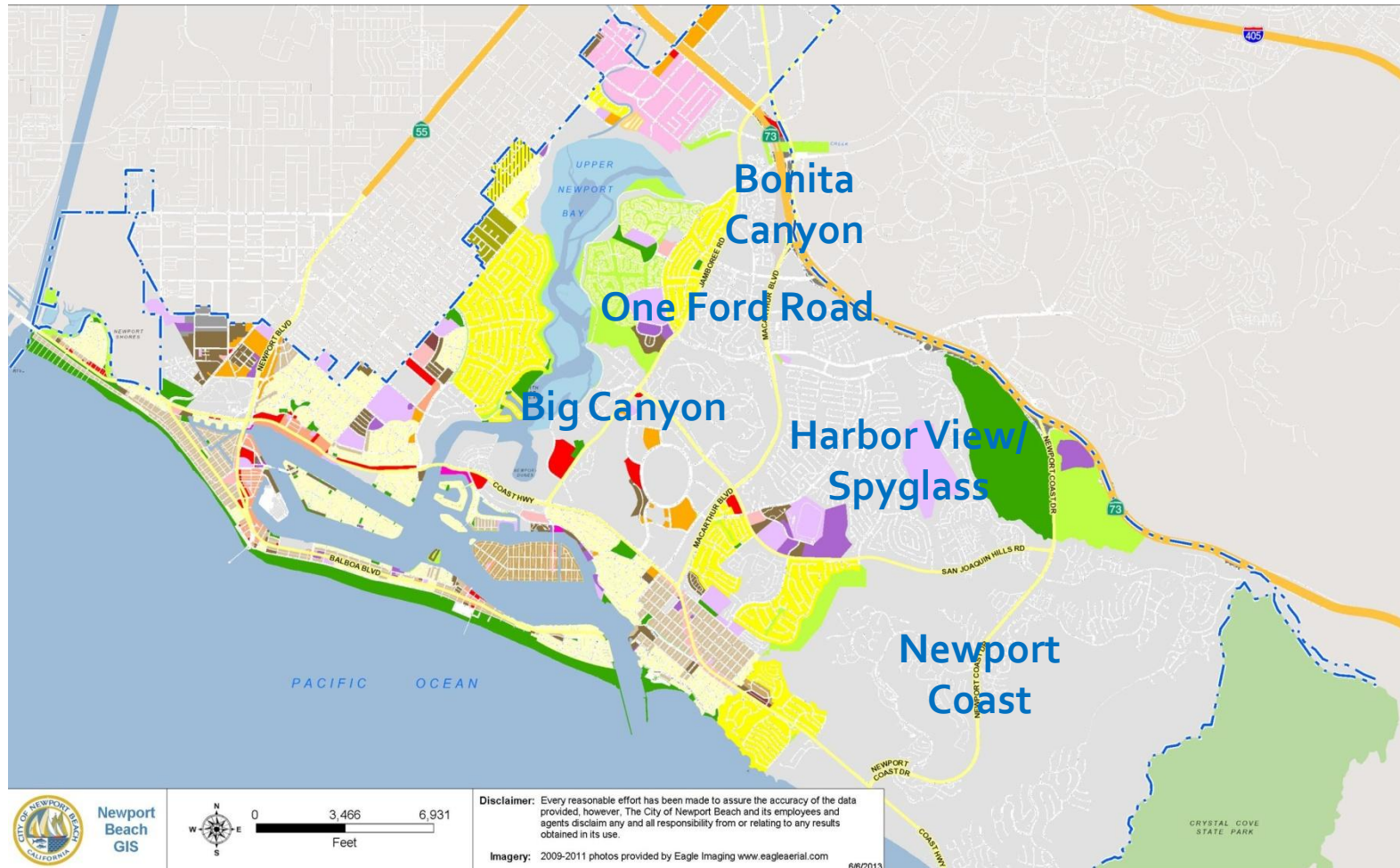


R-1 Zoning Districts

Lot Coverage



PC Districts Lot Coverage



Challenges

- Revised Findings
 - Subjective, uncertainty for property owners
 - Case by case
- Revised Development Standards
 - Variations in lot size, width, area, and orientation
 - Floor area limits v. lot coverage areas
 - Lack of common standards, more uncertainty



For more information contact:

Patrick J. Alford, Planning Manager
949-644-3235
PAIford@newportbeachca.gov
www.newportbeachca.gov

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